

**SUBJECT:** An update on a request to create a separate zone for Parks and Recreation Areas.

**GENERAL INFORMATION:**

**Petitioner:** Cincinnati City Council

**Purpose:** To protect Parks and Recreation Areas from development.

**BACKGROUND:**

On February 13, 2004, a new zoning code for the City of Cincinnati went into effect. Like the old code, the new code did not have a special zoning district for parks and recreation areas. Rather, parks were listed as permitted uses in all residential zones and City-owned parks or recreation areas were zoned to be consistent with the surrounding zoning, or were zoned SF-20 Residential Single Family as is the case with the larger parks.

When the new code was in the process of being approved by City Council, a group of representatives from various Community Councils voiced their concern about the new code not having a separate district for parks and recreation areas. A primary concern was that the City could sell park, recreation, or open space property for development without adequate notice to the surrounding community. Because staff and community members had spent many years writing, reviewing and editing the new zoning code, City Council approved the new code without the separate district for parks and recreation areas and directed Planning staff and the Planning Commission to study and report back to City Council on the creation of a public park and recreation zoning designation for land owned by the Park Board or Recreation Commission.

**EXISTING CONDITIONS:**

Many of the larger parks and recreation areas, such as Eden Park, Ault Park, Burnet Woods, Washington Park, California Golf Course, and Alms Park, are currently zoned SF-20. Other parks, recreation areas, or playfields, such as Pleasant Ridge Park (SF-6), Owl's Nest Park (RMX), Ziegler Playfield (CN-P), Reeves Golf Course (ML) and Bicentennial Commons (RF-R and DD) are zoned to be compatible with surrounding zones.

**PUBLIC COMMENT:**

A public Staff Conference was held on May 25, 2005. Notes from the Staff Conference are attached. Attendees voiced their concern about park or open space property being sold without proper public notification, and their concern that the City may prioritize the need for funds over the importance of preserving greenspace. Although the Park Board and Recreation Commission do not sell or even make improvements to a park or recreation area without getting gaining Community Council support, it was suggested that this is done only out of courtesy and is not policy. The Park Board and Recreation Commission also have a policy of no net-loss of greenspace, meaning that each acre of park or recreation land that is redeveloped must be replaced in the same neighborhood at a 1:1 ratio, minimally. Some community members present questioned whether this is an adopted city policy. It was also mentioned that Community Councils are consulted with, but there may not be adequate outreach to surrounding property owners who may not participate in Community Council, or who cannot attend the meeting when the property is discussed. Staff also held a special update meeting on March 14, 2006 to present and gain input on the three options presented below.

**ANALYSIS OF THE PROPOSED CHANGE:**

The first step of the process was to research other cities' zoning codes. While each code handled the specifics of their parks and recreation areas differently, there were four broad types of districts:

1. No Special District. In these cities, parks and recreation areas are allowed in all zoning districts or in certain districts, like the City of Cincinnati's current code. Dayton, Ohio and Lexington, Kentucky are two cities that address park and recreation areas in this manner.

2. Public Land Protective District. This type of district often regulates a specific geographic area, such as a formal square or riverfront district. Cleveland, Ohio uses this type of designation.
3. Special Purpose District within Base Zoning. This is a separate zone within the code for recognized parks. The guidelines detail permitted and conditional uses and may or may not contain other development regulations such as setbacks or maximum building heights. Cities with this type of designation include: Pittsburgh, Pennsylvania; Toledo, Ohio; Chicago, Illinois; Rochester, New York; Covington, Kentucky; and, Erlanger, Kentucky.
4. Parkland Dedication District. Featured primarily in codes of communities that are still expanding, this guideline mandates a set-aside for parkland in new developments. Columbus, Ohio and Indianapolis, Indiana have this regulation in their codes.

When considering which manner of zoning is most appropriate for the City of Cincinnati, there are three potential options:

#### **Option #1: Make No Changes to the Code Text**

This option assumes that the real issue is notification. Instead of making changes to the Zoning Code, Option #1 proposes an alternative solution, which is to adopt major changes to the notification policies of the City Planning Commission, the Park Board, and Cincinnati Recreation Commission.

Improvements to the notification policies could include: more wide-spread coordinated report circulation; presentation and discussion of sales of park or vacant land at CPC instead of listing them on the consent agenda; mailing notice to adjacent property owners whenever CPC discusses any Park Board or CRC property; and review and revision of Park Board and CRC notification procedures. City Planning Commission, the Park Board, and the Cincinnati Recreation Commission would be required to adopt these changes separately.

This option assumes that all parks would remain in their current zones of SF-20 for larger parks, with smaller parks and recreation areas zoned consistently with surrounding properties. Although there would be some degree of protection for the parks zoned SF-20, there are parks and recreation areas located in, and therefore zoned for, commercial and industrial uses that may be in danger of being more easily converted to other uses. If it was determined that *all* parks and recreation areas were to have been zoned SF-20, regardless of size, then it would be necessary to make extensive map amendments to change the zoning on all of these properties to SF-20.

#### **Option #2: Create a New Zoning District**

This option would involve the creation of an entirely new zoning designation, including the preparation of text with development standards and map amendments for all public parks and recreation areas in the City. The new designation would include only recognized public parks and recreation areas; it would not include semi-public or private land. It is assumed that any development standards must be written in a way that would not hinder or over-regulate the activities of the Park Board or CRC.

If this option were selected, Staff would convene a temporary committee of representatives from the Park Board, Cincinnati Recreation Commission, the Park Advisory Boards, residents, and other interested parties, to assist in the preparation and review of development standards for this new district. Staff would also need to apply the new zone to all public park and recreation properties in the City, resulting in extensive map amendments. Upon completion, the text changes and map amendments would need the approval of City Planning Commission, the Park Board, the Recreation Commission, and City Council.

As it would provide an additional layer of regulation, notification, and review as part of a zone change process, this option has the potential for providing the most protection to parks and recreation areas. However, it is

important to note that zoning alone cannot guarantee that public parks or recreation areas will never be redeveloped. A separate zoning designation will only require any future developer to obtain approval for a zone change before redevelopment can take place.

### **Option #3: Create a New Overlay**

A third option considered was to create a new overlay district. In the overlay district, the underlying zoning would still serve as the primary guide, but the overlay could delineate special development guidelines and require additional notification and review. The overlay would include all public parks and recreation areas, and may include some semi-public property, depending on the specifics of the guidelines.

Again, it is assumed that any development standards would be written in a way that would not hinder or over-regulate the activities of the Park Board or CRC. If this option were selected, Staff would convene a temporary committee to assist in the preparation and review of development standards for the overlay. Extensive map amendments would also be required. Upon completion, the text changes and map amendments would need the approval of City Planning Commission, the Park Board, the Recreation Commission, and City Council.

This option was initially an attempt to include some semi-public park and recreation property, without creating a district that was overly-complicated or legally indefensible. However, the overlay concept provided more questions than answers, proving it too convoluted and legally murky for serious consideration. Also, after much discussion, it was determined that there was less concern over the semi-public space than originally presumed.

### **CONCLUSIONS:**

1. There is a need to provide some level of protection to the City's public parks and recreation spaces.
2. Although the crux of the issue initially appeared to be a need for better notification, that alone is not an ideal solution.
3. An overlay district would be too complicated and legally indefensible.
4. A separate designation for parks and recreation areas is the best way for the zoning code to assist in the preservation of parkland.
5. The next step in the process is to convene a temporary committee to prepare the district guidelines and map amendments before approval by City Planning Commission, the Park Board, the Cincinnati Recreation Commission and City Council.
6. It must be noted that although a separate zone would provide a modicum of protection, it does not guarantee that parks or recreation areas will never be redeveloped.

### **RECOMMENDATION:**

The staff of the Department of Community Development and Planning recommends that the City Planning Commission take the following action:

**Direct** Planning Staff to move forward with the creation of a separate zoning designation for public parks and recreation areas.

APPROVED:

Respectfully Submitted,

Margaret A. Wuerstle, AICP  
Chief City Planner

Katherine Keough-Jurs, AICP  
Senior City Planner

**Parks and Recreation Zoning Staff Conference Notes**  
**May 25, 2005**

**Applicant:** Cincinnati City Council

**Address:** City-wide

**Proposal:** To create a separate Park and Recreation Area zoning district. Currently, Parks and Recreation Areas are zoned SF-20 – Residential Single Family.

**Reason for Proposal:** To protect Parks and Recreation Areas from development.

**Staff Present:**

Margaret Wuerstle, Chief Planner; Katherine Keough-Jurs, Senior City Planner; Steve Schuckman, Park Board; Joe Schwind, Cincinnati Recreation Commission

**Community Members Present:**

Mary Jo Bazely, Dunham/Rapid Run Advisory; Mary Anne Berry, Mt. Washington; Diana Boyd, Northside Greenspace; Ruth Ann Busald, Madisonville Community Council; Tim Bushnell; Elliot Ellis, South Fairmount; Eileen Frechette, Wooden Shoe Hollow Neighborhood Alliance; Paul Gallagher, CUF; Marzetta Goldsmith; Dan and Betty Kamuf, Saylor Park; Stephen Kramrech; Gerry Kraus, North Avondale Neighborhood Association; Marvin Kraus, North Avondale Neighborhood Association; Skip Meinhart, Northside Greenspace; Lynn Mitrovich, Mt. Washington; Bob Neal, Northside Greenspace; Bev Palmer, Hyde Park Neighborhood Council; Eric Russo, Hillside Trust; Vince Schirmer, Oakley; Steve Slack, Clifton; Carl Uebelacker, Hyde Park Neighborhood Council.

**Opening Statements**

Margaret Wuerstle, Chief Planner: Opened the meeting, introduced staff of the Department of Community Development and Planning, and explained that the purpose of this meeting was to gain input about the need for a special zone for parks and recreation areas. It was explained that no decision would be made at this meeting, and that another meeting may be held before a recommendation is made to the Planning Commission.

Katherine Keough-Jurs, Senior City Planner: Explained that Cincinnati City Council had requested a study to consider the creation of the separate Park and Recreation Area Zoning District as a result of concerns from some community members during the approval of the new zoning code. During this meeting, it is hoped that those in attendance will speak about why they feel that a separate zone is or is not necessary. It was explained that a recommendation on this issue will be made to City Planning Commission, and that the Planning Commission's action will then be presented to Cincinnati City Council. All those who are in attendance at this meeting will receive notification of both the Planning Commission and City Council meetings where this will be discussed, as well as any additional meetings on this topic.

**Comments**

**Carl Uebelacker – Hyde Park Neighborhood Council**

- Hyde Park supports a separate zoning district for parks, recreation and green space.
- Smaller Parks are not all zoned SF-20, as was the intention in the current code. There are several examples of this in Hyde Park alone.
- Even if parks and recreation areas are all zoned SF-20, even that zone allows some undesirable uses.
- In a separate zone, only parks and recreation areas should be allowed – all other uses should be conditional uses.
- A major concern is that parks, recreation areas, and greenspace could be sold or redeveloped with less public notification than in a zone change.

Gerry Krause, North Avondale Neighborhood Association

- Particularly concerned about places like Victory Parkway - doesn't want people taking a piece of the Parkway. Needs to be preserved.
- If there were a separate zone, any change would require a zone change, which would then require notification.

Marvin Krause, North Avondale Neighborhood Association

- The City needs to raise money and therefore may try to dispose of property. Greenspace would then be at risk.
- A separate zone would add additional layer of protection.

Lynn Mitrovich, Mt. Washington

- Parks are great family gathering areas and are the jewel of our City.
- Why are they zoned residential? Where will the kids play if they all become residential? Outsiders comment on our parks and citizens understand their value.
- Don't give them to developers but protect for the children.

Mary Anne Berry, Mt. Washington

- Assumed that the City had a separate zoning for parks.
- Would the zone also be for cemeteries?
- City says it would never sell parkland but this is not true as California Woods would have been sold if not for citizen intervention.

Eileen Frechette, Winton Place

- Parks are the jewel of the Queen City. Cincinnati is one of the most livable cities because we value greenspace.
- Most people assume that it is being protected. It deserves a separate zoning designation.

Steve Shuckman, Park Board

- Cincinnati is proud to have the #1 Park system in the country.
- The Park Board is an independent Board with 12 Park Advisory Councils.
- No park property is leased for more than 12 months or sold without community notification. The Community Council is notified, and there are also hearings before the Park Board, Planning Commission, and City Council.

Joe Schwind, Cincinnati Recreation Commission

- The Recreation Commission is also an independent Board.
- Park Board and CRC often work in tandem – there are many situations when one entity owns property and the other manages it.
- All sales of property go through the Board and the Community Council. They also go to Planning Commission and City Council.

Marvin Krause, North Avondale

- The Park Board and Recreation Commission only give community notice out of courtesy – it should be a requirement.

Elliot Ellis, South Fairmount

- South Fairmount Community Council supports Hyde Park's resolution.
- In past, notice was to individual property owners, not to Community Council.
- The process needs to be more formal.

Paul Gallagher, CUF

- CUF is losing a lot of land to development.
- Strongly in favor of anything that allowing public input – especially notification.

#### Steve Slack, Clifton

- Grew up in LA – saw freeway go through neighborhood.
- Well-defined regulations should be designated.
- Look at Burnet Woods – there is activity on all sides.
- The issue of small pieces of green space may be more difficult to define. With an empty corner lot, how do we define it? How do other Cities define it?
- The SF-20 zone brings an air of suspicion – doesn't help the cause.

#### Eric Russo, Hillside Trust

- In favor of change for parks and recreation.
- There are increasing financial challenges in the City and speculative developers; these benefits are only short term.
- There are past examples of parks that were sold or almost sold.
- There is strong economic and social value to parks and rec areas, property values are higher near them, too.
- Also, we have a landslide problem on Columbia Parkway, and some of these parcels are often up for sale. These areas should be protected as well.
- Overdevelopment is a recipe for disaster.

#### Vince Shimmer, Oakley Community Council

- Notify the landlords also, not just Community Council.

#### Dan Kamuf, Sayler Park

- Keep parks separate – we don't want City Council to vote on parks. They are not qualified to make that decision.

#### Betty Kamuf, Sayler Park

- Arn Bortz tried to put restaurants in Parks.
- Parks should be guaranteed as separate space.

#### Bob Neal, Northside

- Northside Greenspace unanimously supports the change.
- Knows a pilot who loves to fly in to Cincinnati because of the parks.
- Change of zoning does not go far enough. There is more value in conservation easements – more difficult hurdle to jump.
- It must be made official. Things change rapidly – the next city council could not support parks.

#### Mary Jo Bazely, Dunham/Rapid Run Advisory

- Cemetery – 23 acres that cannot be developed for more than 60 years.
- When we build on properties, are there any restrictions on what can be built?
- We may put in teeth to not allow sales – what about regulating what they build?
- It's about money – if there are programs for keeping Greenspace it will stay.

#### Marzetta Goldsmith

- In favor of separate district for protection in case City Hall wants to develop green space, parks.
- Parks are the highest and best use.
- Should also alter commercial zones to protect parks; protect residential areas from parks.
- Would want to make it easier for parks to expand.
- What about parking and concession hours?

#### Steven Kramrech

- Parks are one of the big attractions of the City. Population is declining - need to expand parks.
- Development of parks will cause negative impact on the City.
- Nature Conservancy – buys property hang on to it to protect it - thinks that's a good idea.
- Not sure if he is for or against zoning – still needs lots of info; Many things need to be considered.

#### Ruth Ann Busald, Madisonville

- Concerned about eminent domain.
- Past precedent – when Ault Park was in bad shape it was almost sold off. If not protected, something can be sold off for development.
- Residential zoning may not be enough protection.
- Also concerned about greenspace and parkways.

#### Tim Bushnell

- Reason that was given as to why there was no separate zoning is that it was “simpler”. That doesn’t make sense to anyone who isn’t really knowledgeable about zoning.
- What is value to keeping residential zone?
- It will take work but that seems trivial in comparison to protecting parks.
- Also protect non-parks owned by other Departments. All these scraps of land are valued. Value is not known until notice is given.
- People in the neighborhoods need to be informed - even if it’s not a defined park, it still has value. People need to know about all property.

#### Diana Boyd

- Works in parks as a volunteer.
- We need more Greenspace. (Oxygen, air quality)
- In support of separate zone for parks and green space.

#### Skip Meinhart, Northside Greenspace

- Agrees with Diana.
- Agrees with Zone designation.
- Parks are a sanctuary for plant, animals.
- Spectacular specimen of plants and animals.
- Volunteers – it would be nice to have it protected after the work has been put in.
- Terrain is not always good for development but good for plants.

#### Aaron Straighthorn

- Should be a separate zone.

#### Steve Shuckman, Park Board

- 20-30 % of parks came through donations and cannot be sold regardless - can provide a list.
- What about Right-of-Way, Traffic Islands? Those are publicly owned land, but not Park or Recreation areas. This could be a problem.

#### Joe Schwind, CRC

- Open space is fine, but both Parks and CRC have spaces that are not open space (i.e. parking lot for Rec Center).

#### Steve Shuckman, Park Board

- Whatever happens, Parks would not want it to be more difficult or have more regulation.
- Land swaps need to be considered, made easier too.

#### Closing Statement

- Chief Planner Margaret Wuerstle thanked everyone for attending and for giving comments.
- Katherine Keough-Jurs then stated that the notes would be compiled and sent out with a notice for the next meeting.